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15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17

18 LIAT ORSHANSKY, on behalf of herself  
19 and others similarly situated,

20 Plaintiffs,

21 vs.

22 L'OREAL USA, INC. , a Delaware  
corporation; MAYBELLINE, LLC, a New  
23 York limited liability company dba  
MAYBELLINE, NEW YORK,

24 Defendants.  
25

Case No. 3:12-CV-06342-CRB

**DEFENDANTS' ADMINISTRATIVE  
MOTION TO CONSIDER WHETHER  
CASES SHOULD BE RELATED [LR 3-12]**

Case to be Related: *Nobles, et al. vs. L'Oréal  
USA, Inc., et al.*, Case No. 3:13-cv-01911-JSC

## INTRODUCTION AND SUMMARY

Defendants L'Oréal USA, Inc. and Maybelline LLC (together "L'Oréal") hereby move the Court pursuant to Civil Local Rule 3-12 for an Order determining that a later filed action in this District, *Nobles, et al. vs. L'Oréal USA, Inc., et al.*, Case No. 3:13-cv-01911-JSC ("*Nobles*"), should be related to this earlier filed action. Both cases assert putative class actions on behalf of the same putative class members, against the same defendants, arising from the same alleged misrepresentations concerning the same products. For all practical purposes, the later filed *Nobles* case is an exact duplicate of this earlier filed *Orshansky* case.<sup>1</sup>

## FACTS

This earlier filed *Orshansky* case was filed on December 14, 2012. (Dkt. 1). On January 31, 2013, the case was assigned to the Hon. Charles R. Breyer. (Dkt. 13). After L'Oréal moved to dismiss the complaint, Plaintiff filed a First Amended Complaint on March 8, 2013. (Dkt. 21). The case is set for an initial Case Management Conference before Judge Breyer on July 12, 2013. (Dkt. 42).

The later filed *Nobles* case was filed on April 25, 2013 and assigned to the Hon. Jacqueline S. Corley. (Dkt. 1). Within the last week L'Oréal signed and returned to Plaintiff's counsel a Waiver of the Service of Summons form for each defendant. No further proceedings have occurred in the *Nobles* case.

Both cases are brought as putative class actions against the same defendants, namely L'Oréal USA, Inc. and Maybelline LLC. *Compare* Complaints attached to the Declaration of C. Brandon Wisoff, filed herewith, at Exs. A and B. Both cases purport to assert claims on behalf of the same persons, namely nationwide and California purchases of the same four cosmetic products: Super Stay 14 HR Lipstick, Super Stay 10 HR Stain/Gloss, New Voluminous False Fiber Lashes, and Volum'Express The Falsies. *Id.* Both cases assert the same factual claims, namely that L'Oréal misrepresented the duration and other performance characteristics of the various products. *Id.* Both cases assert the same legal claims: violations of California's

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<sup>1</sup> L'Oréal believes that *Nobles* should not only be related, but consolidated with *Orshansky*. L'Oréal will raise that issue if the Court finds the cases are related.

1 Consumers Legal Remedies Act, Civ. Code §1750 *et seq.*, breach of express warranty, breach of  
 2 the implied warranty of merchantability, violations of California’s Unfair Competition Law, Bus.  
 3 & Prof. Code §17200 *et seq.*, and False Advertising Law, Cal. Bus. & Prof. Code §17500 *et seq.*,  
 4 and violations of the federal Magnuson-Moss Warranty Act, 15 U.S.C. §20301 *et seq.* *Id.* Both  
 5 cases seek monetary and injunctive relief in favor of the putative classes. *Id.*

6 In addition to ECF service on all parties to this action, service copies of these motion  
 7 papers have been manually served on counsel in the *Nobles* case and courtesy copies have been  
 8 lodged with Magistrate Judge Corley to whom the *Nobles* case is assigned.

### 9 **ARGUMENT**

10 The later filed *Nobles* case is “related” to the earlier filed *Orshansky* according to the  
 11 definition set forth in Local Rule 3-12(a). It should be reassigned to Judge Breyer so that the  
 12 issues in *Nobles* can be adjudicated efficiently and consistently with those in *Orshansky*.

#### 13 **I. THE ACTIONS CONCERN SAME PARTIES AND EVENTS**

14 The cases involve the exact same parties with the sole difference being the identity of the  
 15 named class representatives. But each named class representative is included within the identical  
 16 and overlapping class definitions in each case. Thus, the cases present a 100% overlap in parties  
 17 for all practical purposes.

#### 18 **II. PROCEEDING BEFORE DIFFERENT JUDGES WILL RESULT IN 19 DUPLICATIVE EFFORT AND RISK CONFLICTING RESULTS**

20 The cases involve the same alleged misrepresentations concerning the same four products  
 21 and assert the same six causes of action on behalf of the same putative classes against the same  
 22 two defendants. Discovery and motion practice will obviously overlap. Thus, there are clear  
 23 efficiencies to having the cases heard before the same judge. Conversely, there is an unwarranted  
 24 risk of conflicting results if the cases are heard before different judges.

